

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. , ORDER NO. 2015-_____

June 22, 2015

Application of American Broadband and)	ORDER DESIGNATING AMERICAN
Telecommunications Company for)	BROADBAND AND
Designation as an Eligible Wireless)	TELECOMMUNICATIONS COMPANY AS
Telecommunications Carrier for Low)	AN ELIGIBLE TELECOMMUNICATIONS
Income Support Only)	CARRIER FOR THE PROVISION OF
		LIFELINE SERVICE

This matter comes before the Public Service Commission of South Carolina (the “Commission”) and concerns the above-captioned Application of American Broadband and Telecommunications Company (“American Broadband,” “Company” or “Applicant”) for Designation as a Wireless Eligible Telecommunications Carrier (“ETC”) for Low Income Support Only in the State of South Carolina (“Application”).

For the reasons explained herein, the Commission grants the Application and concludes that designation of American Broadband as an ETC on the terms provided in this Order would serve the public interest.

BACKGROUND

The Application is supported by the Company’s Federal Communications Commission (“FCC”) Compliance Plan approved on May 25, 2012 (“Compliance Plan”), the Verified Direct Testimony of Jeffrey S. Ansted filed on May 13, 2015 (“Verified Testimony”), and a Stipulation

entered into between American Broadband and the South Carolina Office of Regulatory Staff (“ORS”) filed with the Commission on May 22, 2015 (the “Stipulation”).

As directed by the Commission, notice of the filing of the Application was published in *The State* newspaper and *The Greenville News*, with proofs of publication being filed with the Commission on April 7, 2015 and April 13, 2015. No petitions to intervene were filed in this matter. ORS is a party pursuant to statute.

The Stipulation recommends that the Commission designate American Broadband as an ETC for the limited purpose of providing Lifeline service to qualified households in accordance with the terms contained therein. The terms of the Stipulation include, but are not limited to, American Broadband’s agreement to comply with all terms and conditions of its FCC approved Compliance plan, and its agreement to submit any changes or modifications to the Compliance plan to the Commission and the ORS within five (5) days of filing same at the FCC. A copy of the Stipulation is attached hereto as “Exhibit A”, and its terms are incorporated herein by reference.

On June 3, 2015, American Broadband filed a motion requesting that the Commission waive the hearing scheduled for June 24, 2015 at 10:30am, admit the Verified Testimony into the record, and grant expedited consideration and approval of the Application. ORS did not object to this motion.

Having considered the record before it, the Commission finds that record is sufficient to make a final determination in this matter, and further finds that the interests of judicial economy are served by waiving the scheduled hearing and granting expedited consideration and approval of the Application.

ANALYSIS

Section 214(e) (2)(e) of the Telecommunications Act of 1996 (the “Act”) authorizes state commissions to designate common carriers that meet the requirements as ETCs.¹ 10 S.C. Code Ann. Regs. Section 103-690 provides that the Commission will fulfill its responsibility to designate common carriers as ETCs, and establishes the requirements that an applicant must meet in order to be designated an ETC.²

As demonstrated in the Application, the Verified Testimony, the Stipulation, and the Company’s Compliance Plan, American Broadband satisfies all the relevant requirements for designation as an ETC specified in Sections 254 and 214 of the Act and Section 103-690 of the South Carolina regulations. American Broadband is (i) a common carrier as defined by 47 U.S.C. Section 153(10), (ii) offers all the supported services,³ (iii) provides its pre-paid voice service plans, including a Lifeline plan, and (iv) offers service throughout its designated service area.

Additionally, following designation American Broadband will (v) advertise the availability of its Universal Service offerings and charges through media of general distribution, specifically its Lifeline services throughout its ETC service area in satisfaction of 10 S.C. Code Ann. Regs. Sections 103-690, 103-690.1E(a)(1) and 103-690.1E(b)(1); (vi) make Lifeline service available to qualifying low-income consumers without requiring a service deposit in order to initiate Lifeline service if the consumer elects toll limitation services, forbear from charging a monthly number portability charge, verify annually that its Lifeline customers meet the qualifications and provide sixty days’ notice to customers which it believes no longer qualify

¹ 47 U.S.C. Section 214(e)(2).

² See 10 S.C. Code Ann. Regs. Section 103-690C.

³ 47 U.S.C. Section 254(c); 47 C.F.R. Section 54.101(a); and S.C. Code Ann. Regs. Section 103-690C(a).

for Lifeline service,⁴ (vii) certify that it complies with the service requirements applicable to the support it receives, (viii) be able to remain functional in emergency situations,⁵ (ix) satisfy consumer protection and service quality standards which are set forth in the CTIA Consumer Code as described in the Application including annual certification of its compliance and reporting of consumer complaints in accordance with S.C. Code Ann. Regs. Sections 103-690C(a)(1)(C)(3) and 103-690.1B(b)(4), (x) provide Lifeline local usage plans comparable to the incumbent local exchange carriers already operating in the area, (xi) comply with applicable reporting requirements including, but not limited to, annual progress reports required in S.C. Code Ann. Regs. Section 103-690.1, annual certification that it is able to remain functional in emergency situations as required by S.C. Code Ann. Regs. Section 103-690C(a)(2) and annual outage reporting requirements of S.C. Code Ann. Regs. Section 103-690.1B(b)(2) and (xii) as explained below, take steps to limit fraud, waste and abuse in the federal universal fund programs.

On February 6, 2012, the FCC adopted comprehensive reforms to the low-income program to revise the Lifeline service requirements.⁶ In the Lifeline Reform Order, the FCC adopted specific reforms attempting to limit fraud, waste and abuse in the low-income program. American Broadband commits to compliance with the rules set out in the Lifeline Reform Order as they are applicable.

Section 103-690C(b) of the S.C. Code of Regulations provides that, in determining whether an ETC designation is in the public interest, the Commission must consider, *inter alia*,

⁴ See S.C. Code Ann. Regs. Section 103-690.1E(a)-(b).

⁵ S.C. Code Ann. Regs. Section 103-690C(a)(2).

⁶ *In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 11-42, FCC 12-11, released February 6, 2012. ("Lifeline Reform Order").

the benefits of increased consumer choice and the unique advantages and disadvantages of the applicant's service offering. Considering these factors and others, the Commission determines that it is in the public interest that the Commission grant American Broadband wireless ETC designation for the limited purpose of providing Lifeline service. In addition, and consistent with federal findings, the Commission agrees that a "cream skimming" analysis is not required as a public interest test in the case of carriers seeking ETC designation for the limited purpose of offering Lifeline services.

IT IS THEREFORE ORDERED THAT:

- I. The Verified Testimony and the Stipulation are accepted into the record without objection.
- II. The Applicant's Motion to Waive the Hearing and Seeking Expedited Consideration is granted.
- III. Any changes or modifications to the Company's FCC approved Compliance Plan will be filed with the Commission, with a copy to ORS, within five (5) days of filing at the FCC.
- IV. Subject to the terms and conditions herein, American Broadband and Telecommunications Company is hereby designated as a wireless ETC for the limited purpose of providing Lifeline service as requested in the Application and on the terms provided in the Stipulation. A copy of this Order shall be promptly provided by the Commission to the FCC and the Universal Service Administrative Company ("USAC").

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V. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

Nikiya Hall, Chairman

ATTEST:

Swain E. Whitfield, Vice-Chairman

(SEAL)